

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET

SACRAMENTO, CA 95814-5512



STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:

Russell City Energy Center Project
Petition to Extend the Deadline for
Commencement of Construction

Docket No. 01-AFC-7C

Staff's Recommendation

DOCKET 01-AFC-7C	
DATE	JUL 24 2008
RECD.	JUL 24 2008

INTRODUCTION

Staff recommends that the California Energy Commission (Energy Commission) approve the petition filed on May 30, 2008, by Russell City Energy Company, LLC (project owner) to extend the deadline for the commencement of construction from September 10, 2008 to September 10, 2010. The petition was filed under section 1720.3 of the Energy Commission's regulations, which allows an applicant to request, and the Energy Commission to order, an extension of the construction deadline "for good cause."

PROJECT BACKGROUND

The Russell City Energy Center (RCEC) project, Docket Number 01-AFC-7, a 600 megawatt (MW) natural gas-fired, combined-cycle electric generating facility located in Hayward, California, was certified on September 11, 2002. A major amendment to move the project location 1,300 feet northwest of the original location, Docket Number 01-AFC-7C, was filed on November 17, 2006. Following a comprehensive environmental review conducted by Energy Commission Staff, as well as extensive public hearings, the amendment was approved by the Energy Commission on October 2, 2007.

The initial deadline for commencement of construction was September 10, 2007. On July 25, 2007, the project owner filed a petition to extend the deadline for the commencement of construction of the RCEC for one year, to September 10, 2008. The Energy Commission issued an Order approving the extension on August 29, 2007.

SUMMARY OF PETITION AND RECOMMENDATION

The current petition for extension was received and docketed on May 30, 2008. The petition states that the owner has not been able to complete project financing or start construction by September 10, 2008, due to multiple past appeals related to the Energy

Proof of Service (Revised 11/1/07) filed with original.
Mailed from Sacramento on 7-24-08 *SN*

Commission's decision and a pending appeal of the project's federal air permit at the Environmental Appeals Board of the U.S. Environmental Protection Agency.

Staff takes no issue with the applicant's statements in the petition and has concluded that the petition requesting the extension of the deadline for commencement of construction shows good cause for extending the deadline. Furthermore, the extension of the date to commence construction itself would not cause a significant effect on the environment, apart from that which has already been thoroughly reviewed in approving the 2007 major amendment. Therefore, staff recommends the Energy Commission adopt an order approving the requested extension to September 10, 2010.

PUBLIC REVIEW

A Notice of Receipt of the petition for extending the deadline for commencement of construction was docketed, mailed to the post-certification mailing lists, and posted to the Energy Commission's website on June 13, 2008. Public comments were received during the period of June 13, 2008 to July 1, 2008. Staff has responded to the public comments in writing. Those written responses are available for public viewing under the compliance proceeding Docket Number 01-AFC-7C. A copy of the draft order for the Energy Commission's consideration at the July 30 Business Meeting is attached.

Date: July 24, 2008

Respectfully submitted,



KEVIN W. BELL
Senior Staff Counsel

1516 NINTH STREET

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:)	
Russell City Energy Center Project)	Docket No. 01-AFC-7C
)	
Russell City Energy Company, LLC)	Order No.
)	ORDER APPROVING a Petition to Extend
)	the Deadline for Commencement of
)	Construction

On May 30, 2008, Russell City Energy Company, LLC, filed a petition to extend the deadline for the commencement of construction of the Russell City Energy Center (RCEC), located in Hayward, California. Petitioner requests an extension of two years, from September 10, 2008, to September 10, 2010. The deadline, set by regulation, is otherwise five years from the effective date of the Energy Commission's final decision on the application for certification. An applicant, before the deadline, may request and the Commission may order an extension for good cause. (Cal. Code Regs., tit. 20, § 1720.3.)

This matter was heard at the regularly scheduled Business Meeting held on July 30, 2008, at which time staff and petitioner addressed the Commission. Staff had no objections to extending the deadline as requested, and recommended approval of petitioner's request to extend the deadline to commence construction based on the reasons stated in the petition.

Through its petition and these proceedings, petitioner Russell City Energy Company, LLC asserts that this extension is necessary because the project owner will not be able to complete project financing and commence construction by September 10, 2008. The project owner's inability to commence construction is due to multiple past appeals related to the Commission's decision and a pending appeal of the project's PSD permit, a federal air permit, at the Environmental Appeals Board of the U.S. Environmental Protection Agency.

The Commission received several public comments protesting the extension, but there was no evidence refuting the petitioner's statements and reasons supporting its request for the extension.

Order Approving Petition To Extend The Deadline For The Commencement Of
Construction Of The Russell City Energy Center Project

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CONCLUSION AND ORDER

Good cause having been shown by the petitioner, the California Energy Commission hereby grants the petition to extend the start of construction of the Russell City Energy Center from September 10, 2008, to September 10, 2010.

IT IS SO ORDERED.

Date: July 30, 2008

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

JACKALYNE PFANNENSTIEL, Chairman

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF CALIFORNIA

Amendment to the APPLICATION
FOR CERTIFICATION OF THE
RUSSELL ENERGY CENTER
POWER PLANT PROJECT

Docket No. 01-AFC-7C
PROOF OF SERVICE
(Revised 11/01/07)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

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DECLARATION OF SERVICE

I, Scott McDonald, declare that on July 24, 2008, I deposited copies of the attached Staff's Recommendation in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmitted via facsimile transmission to those identified above with a Fax number.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.



Scott McDonald